

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-BB/LFG

RIO CHAMA STREAM SYSTEM

Section 3, Rio Cebolla

Subfile No. CHCB-002-0014

MOTION TO AMEND CONSENT ORDER
DESCRIBING THE WATER RIGHTS OF THE CEBOLLA MUTUAL
DOMESTIC WATER CONSUMERS ASSOCIATION IN SUBFILE CHCB-002-0014

The plaintiff State of New Mexico, *ex rel.* State Engineer (State) moves the Court to amend the Consent Order entered on July 31, 2002 (Doc. No. 6793) in Subfile CHCB-002-0014 describing the water rights of defendant Cebolla Mutual Domestic Water Consumers Association and as grounds therefore plaintiff states:

1. The Consent Order entered on July 31, 2002 in Subfile CHCB-002-0014 that describes the water rights of the Cebolla Mutual Domestic Water Consumers Association (“the Association”) does not include a description of the amount of water or the priority of the Association’s water rights. These elements of the Association’s water rights were reserved for future determination. *See* Consent Order at 2. The State has reviewed the information in the water rights files of the Office of the State Engineer with the staff of the Water Rights Division, and the State believes the Association presently has the right to divert and use 17.31 acre-feet of groundwater per annum with a priority of 1875, and 3.00 acre-feet of groundwater per annum with a priority of August 1, 1972.

2. Counsel for the State has written to the Board of Directors of the Association through their counsel of record Ted J. Trujillo to learn if the Association agrees with the State's assessment of the Association's water rights, but to date the State has not received a response that would indicate if the Association agrees or disagrees with the State's assessment.

3. The Consent Order entered on July 31, 2002 that describes the water rights of the Association also contains an error in the description of the source of water and possible points of diversion for the Association's water rights. The Consent Order describes an infiltration gallery that would divert the surface water of the Rio Cebolla. This infiltration gallery has been abandoned and is not a point of diversion that is authorized for use. All surface water rights associated with the infiltration gallery were transferred to the Association's well (RG-21554) by permit approved by the State Engineer on March 5, 2002. The Consent Order entered on July 31, 2002 should be revised to delete any reference to surface water as a source of water and to delete the information on an infiltration gallery as a point of diversion.

WHEREFORE, the plaintiff State of New Mexico requests the Court to amend the description of the elements of the Association's water rights in the Consent Order entered on July 31, 2002 in Subfile CHCB-002-0014 as follows:

A. DOMESTIC & SANITATION (Groundwater):

Office of the State Engineer File No.: RG-21554

Amount of Water and Priority:

Amount of Water	17.31 acre-feet per annum
Priority	1875

Amount of Water	3.0 acre-feet per annum
Priority	August 1, 1972

Source of Water: Underground waters of the Rio Chama Stream System and the Rio Grande Underground Basin

Purpose of Use: DOMESTIC, MUNICIPAL AND RELATED

Point of Diversion:

Well: RG-21554

Location X: 1,574.647 **Y:** 2,019,092 feet
New Mexico State Plane Coordinate System, Central Zone, NAD1983

Place of Use:

Members of the Cebolla Mutual Domestic Water Consumers Association. As shown on the 2000 Hydrographic Survey Map CHCB-1, 2, 3, 4, 5, 6, 7, & 8.

Respectfully submitted,

/s/ Ed Newville
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9th day of July 2012, I filed the foregoing electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail, and served the following parties via first class mail addressed as stated.

/s/ Ed Newville
EDWARD G. NEWVILLE

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